

February 21, 1992
REPORT TO THE COMMITTEE
ON TRANSPORTATION AND LAND USE

CITY ATTORNEY'S CODE ENFORCEMENT
UNIT-CASELOAD STATISTICS, FINES AND CIVIL PENALTIES

This Committee as part of its special session on code enforcement has requested information on the number of criminal and civil cases filed by the Code Enforcement Unit (CEU) and the amount of criminal fines and civil penalties assessed in these cases. Several statistical tables are incorporated in this report for your information.

CASES RECEIVED BY DEPARTMENT

	FY 90	FY 91	FY 92*
Planning & Signs	33	69	35
Building Inspection (Housing-Building-Noise)	20	34	17
Litter Control	16	22	6
Fire Prevention	8	9	7
Other (Health-Water Utilities-SDPD)		9	11
TOTAL	86	145	73

* Includes the first half of Fiscal Year 1992 (July 1, 1991 - December 31, 1991)

Overall, it appears as if the City's code enforcement divisions are referring cases to the CEU for judicial action at a similar rate as Fiscal Year 1991. The 73 cases sent during the first half of Fiscal Year 1992 are precisely half of the 145 cases sent last year.

Roughly half of the new cases for this fiscal year have been sent by the Planning Department. These 35 cases include zoning, planning and sign code violations. The Planning Department is also the highest user of the Environmental Mediation Program. They have sent 100 cases between February, 1991 & February 10, 1992.

Another variable which affects the number of case referrals is the increased availability of administrative remedies. The City's code enforcement system is more comprehensive today than it was three years ago. Instead of sending cases to the CEU for criminal or civil court action, the departments can also use various administrative remedies-- i.e. administrative citations for minor violations like illegal parking or signs without permits. Therefore, many of the cases which involve

minor violations are no longer sent to the CEU unless the department cannot gain compliance with the administrative remedy. Over the past six months, the CEU has seen an increase in the number of cases where administrative remedies failed to gain compliance.

The CEU also has a vital role with respect to representing departments at administrative abatement and civil penalties hearings.

CASE RESULTS

Since its inception in August, 1984, the CEU has obtained compliance in over 2,100 cases. A total of 125 cases were closed in Fiscal Year 1991. Eighty-eight cases have already been closed in the first half of this fiscal year. This could translate into a 27% increase in closed cases if this trend continues for the rest of Fiscal Year 1992.

Approximately 38% of these cases were closed without litigation by merely sending a demand letter or conducting an office hearing. This represents a significant savings in time and money.

	FY 90	FY 91	FY 92
Demand Letters	60	55	28
Office Hearings	8	37	13

The CEU's litigation track record in court is also noteworthy. Any violation of the Municipal Code can be filed as either a misdemeanor criminal prosecution or a civil injunction in Superior Court. Most of these misdemeanor prosecutions were resolved within less than four months from the data a complaint was filed. The 80 criminal complaints filed in Fiscal Year 1991 represents a 43% increase from Fiscal Year 1990.

	FY 90	FY 91	FY 92
Criminal Complaints		46	80
Civil Complaints	5	12	8

Civil litigation is generally reserved for the most flagrant offenses like substandard housing, drug abatement, continuous work without permits, or significant fire and building code violations that pose imminent threats to the public's health and safety.

CRIMINAL FINES AND JUDICIAL CIVIL PENALTIES

Fiscal Year 1990	\$ 39,075
Fiscal Year 1991	\$137,175
Fiscal Year 1992*	\$103,850

* Includes the first half of this fiscal year.

These totals reflect the amount of criminal fines imposed via misdemeanor cases and the amount of civil penalties assessed via superior court civil actions. We have incomplete information on the amount which has been actually collected since criminal fines are collected by the County.

Pursuant to the Penal code, criminal fines are distributed between the County and the City according to a specified percentage. The City's percentage of criminal fines are deposited in the General Fund. Judicial

civil penalties can be assessed either by a Drug or Redlight Abatement action or under the Unfair Business Practices Act. Civil penalties assessed under the Unfair Business Practices Act are divided with half going to the County and half to the City's General Fund.

Effective January 1, 1992, the CEU now uses the new judicial civil penalties provision from our Municipal Code in its superior court injunction cases. Civil penalties collected under this authority are deposited in the City's Code Enforcement Civil Penalties Fund.

Respectfully submitted,

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